

A4R
8.L33
1996/1
Copy3



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

S. C. STATE LIBRARY

JAN 1 1 1996

STATE DOCUMENTS

January 1996

CONTENTS

Results of the Membership Survey.....2

Background on the Issues.....13

OFFICE OF RESEARCH

Room 309, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803)734-3230

Legislative Update, January 1995

Results of the 1995 Issues Survey

Block grants topped the list of issues in this year's House membership survey of priority issues for the 1996 legislative session. Among other issues which ranked high on the list were property tax relief, auto insurance, public school facilities, state government accountability and efficiency, agency rule making, post conviction relief, and higher education reform.

How the Survey Was Conducted

This was the tenth (10th) year that the House Research Office has conducted an issues survey of the House membership prior to the beginning of the session. Thanks is given to the staff of the House standing committees for developing the survey issues and preparing the accompanying explanations of those issues. The surveys were mailed to members on Friday, December 8. Sixty-one (61) of the 124 House members (or nearly 50 percent) responded to the survey---down one member from the 62 responses received for the 1994 survey.

As in surveys of previous years, House members this year were asked to rank a wide range of issues, 34 in all. The issues listed in the survey were compiled by the House Research Office from House staff and media reports. A scale of 1 to 5 was used to rank the priority of each issue, with "5" representing the highest priority and "1" representing the lowest priority. Space also was provided for members to list any priority issue not listed on the survey. Additionally, House members were asked to name the top three priority issues for the 1996 session.

It should be noted that the survey results do not necessarily indicate or reflect how members will vote on a particular bill, but rather, the results provide some indication of the issues to which House members believe the General Assembly should give priority attention during the upcoming legislative session.

Legislative Update, January 1995

How the Issues Ranked

Below you will find how House members rated the 34 issues listed in this survey. A brief description of each issue, which was included in the survey, is repeated here for a better understanding of the issues. Following this list, you will find graphs indicating how each issue scored in terms of priority.

1. **BLOCK GRANTS**
Legislation to ensure that South Carolina is prepared to administer federal block grants at a time when the federal government is expected to dispatch certain programs (such as Medicaid and welfare) back to the States.
2. **PROPERTY TAX RELIEF**
Funding to maintain homeowner property tax relief as a priority.
3. **AUTO INSURANCE**
Legislation to reduce the cost of auto insurance (e.g., via enactment of choice "no fault" legislation, reduction of recoupment fees for certain drivers, making insurance non-compulsary, etc.).
4. **PUBLIC SCHOOL FACILITY ASSISTANCE**
Legislation to set criteria for distribution of proceeds from operation of the Barnwell Low-Level Radioactive Waste Facility to public schools (for construction, renovation, and other school projects).
5. **STATE GOVERNMENT ACCOUNTABILITY AND EFFICIENCY**
Legislation to make state government more accountable and efficient in a time of government downsizing (e.g., require certain programs to be self-sufficient, operating off their own revenue, and base state employee pay on productivity instead of granting "across the board" raises).

Legislative Update, January 1995

6. **AGENCY RULE MAKING**
Legislation to improve legislative oversight of the regulatory process (e.g., require General Assembly's approval before any regulation becomes effective, establish a Rules Review Commission to review regulations).
7. **POST CONVICTION RELIEF/HABEAS CORPUS REFORM**
Legislation to reduce frivolous appeals of persons convicted of crimes and to shorten the appeals process.
8. **HIGHER EDUCATION**
Legislation to address the cost operating and financing higher education (e.g., by re-examining funding priorities, reducing unnecessary duplication of programs in the states's colleges and universities).
9. **CASH BUDGETING FOR CAPITAL PROJECTS**
Legislation to finance capital projects with cash (i.e., through use of monies in Capital Reserve Fund or Supplemental Appropriations Act) instead of with bonds, saving taxpayers millions of dollars in interest costs.
10. **SENTENCING GUIDELINES**
Legislation to enact advisory sentencing guidelines, to reduce disparity and increase fairness in sentencing uniformly across the state and to ensure the best use of the resources of the Dept. of Corrections.
11. **DIVISION OF MOTOR VEHICLES (TIED)**
Legislation to place responsibilities of the Division under one state department instead of two and to make DMV more accessible to customers (e.g., renewal of drivers' licenses by mail, use of ATM machines to pay vehicle property taxes).

EDUCATION (K-12) REFORM (TIED)
Legislation to further reform the delivery of K-12 education (e.g., new accountability standards, deregulation, examination of governing authority of local boards and superintendents vs. State Board of Education).
13. **TUITION ASSISTANCE**
Legislation to set criteria for awarding college scholarships funded from proceeds derived from operation of the Barnwell Low Level Radioactive Waste Facility.

Legislative Update, January 1995

14. HEALTH CARE/INSURANCE

Legislation to expand access to health care, while maintaining quality and controlling costs at a time when the growth rate of federal Medicaid funds is expected to slow.

15. WORKERS' COMPENSATION (TIED)

Legislation to lower rising costs of the workers' compensation system (e.g., through administrative changes, providing employers option of paying for small claims in return for lower premiums, requiring use of managed care programs).

HIGHWAY FUNDING (TIED)

Legislation to authorize alternate sources for funding highway construction and maintenance needs (such as by using supplemental appropriations and re-examining allocation of C funds).

PROPERTY RIGHTS (TIED)

Legislation to mandate compensation for landowners whose property values are diminished by a certain amount because of state/local laws or regulations.

18. ENVIRONMENTAL INFRASTRUCTURE FUNDING

Legislation to capitalize the State's Infrastructure Facilities Revolving Loan Fund (so that cost-effective drinking and waste water and solid waste management facilities can be built, helping to attract economic development).

19. TRANSPORT OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

Legislation which would allow spent nuclear fuel and high-level radioactive waste to be transported in S.C. only if (1) an environmental impact statement has been prepared, and (2) DHEC has certified that the transport and storage of those elements in S.C. pose no significant health or safety risks to the people of our state.

20. DEPARTMENT OF TRANSPORTATION (TIED)

Legislation to eliminate the current Transportation Commission and instead require DOT to be a cabinet agency under the governor (i.e., DOT run by a person appointed by the governor, either with or without the consent of the Senate).

Legislative Update, January 1995

EDUCATION (K-12) BLOCK GRANTS (TIED)

Legislation to award funding to school districts via block grants, instead of current system of budgetary "line items," thereby giving schools more flexibility in reaching educational achievement and performance standards.

22. TEEN PREGNANCY (TIED)

Legislation to establish a program within the Health and Human Services Coordinating Council to fund local adolescent pregnancy prevention programs.

FAMILY PRESERVATION AND SUPPORT (TIED)

Legislation to enact family preservation services (i.e., development of comprehensive programs to address family-related social problems before they worsen, instead of reacting only when such problems reach crisis stage).

24. MANUFACTURING PERSONAL PROPERTY TAX DEPRECIATION

Legislation to reduce from 20% to 10% the manufacturer's depreciation residual on personal property capitalized. (Under state depreciation laws, a manufacturer's personal property depreciates in value by 80% over a period of time, so that even at 80% depreciation, the local government is taxing the property at 20% of its original value. Yet, commercial businesses can depreciate the same property to 10% of its original value. Changing the manufacturer's residual to 10% would treat both types of businesses equitably.)

25. STRATEGIC PLANNING

Legislation to develop a strategic planning process for South Carolina (i.e., prioritization of the state's resources, enacting legislation in anticipation of the future instead of only in response to problems).

26. AFFIRMATIVE ACTION

Legislation to prohibit the use of race, sex, and other factors as criteria for discriminating against or granting preferential treatment to any group or race in South Carolina's system of public education, public employment, and public contracting.

27. TELECOMMUNICATIONS

Legislation to change method of regulating the telecommunications industry (i.e., instead of regulating industry as a monopoly based on its "earnings," change regulatory method to one based on "prices," to increase competitiveness and efficiency on the state level.

Legislative Update, January 1995

28. **SCHOOL CHOICE**
Legislation to allow public school choice (i.e., allow parents to send their children to special "charter schools" within their school district or to public schools inside/outside their district) and/or to allow parents to send their children to private schools via a voucher system.
29. **REAL ESTATE TRANSFER FEES**
Legislation to allow either a county or municipality, but not both, to impose a fee on transfer of real property (eliminating an example of "dual fee systems" used by municipal and county governments).
30. **CONSUMER FINANCE**
Legislation to address problems associated with deregulation of this industry (e.g., increased regulation of check cashing businesses and credit repair agencies).
31. **FISH, GAME AND WATERCRAFT LAWS**
Legislation to simplify and modernize the State's fish, game, and watercraft laws (i.e., make them more concise and uniform, reducing confusion among outdoor enthusiasts).
32. **ADULT EDUCATION (TIED)**
Legislation to reduce fragmentation and improve coordination in providing adult education (by assigning all adult education services to the State Board for Technical and Comprehensive Education and the 16 technical colleges).
- HERITAGE TRUST PROPERTY ACQUISITION LIMITS (TIED)**
Legislation to limit the number of acres of land which may be purchased under this program in any one county to 20,000 acres (this program permits the State to purchase up to 100,000 acres statewide of land deemed to have "outstanding and unique natural and cultural character").
34. **STATE LOTTERY**
Legislation to implement a state lottery, with net proceeds used to assist the elderly in purchasing prescription medication and to provide property tax relief.

Legislative Update, January 1995

How the 34 Issues Were Ranked

Each issue was rated by computing the number of votes received in each of the 1 to 5 priority rankings. With 61 House members responding this year, the highest possible score for any issue was 305. As an example of these calculations, block grants, the highest rated issue in this survey, received a score of 271. This score was computed by multiplying by 5 the 36 "five" priority votes, by 4 the 18 "four" priority votes, by 3 the 6 "three" priority vote, and by 1 the 1 "one" priority vote. Answers listed in the "no opinion" category were not used. By computing a score for each issue via this procedure, each issue could be fairly compared and ranked.

The chart on this page and the following page lists each issue in order of priority ranking and the number of votes it received in each category. The "no opinion" votes are not shown, as they count nothing toward the final score. In comprehending this chart, it is important to look not only at the total priority score for each issue but also at the number of "high priority" scores (i.e., the number of "5"s and "4"s) an issue received. For example, block grants, which ranked highest on this chart, received a "5" (highest number priority on scale from 1 to 5) from 36 of the 61 legislators who responded to the survey.

Potential Issue	Priority					Total
	High 5	4	3	2	Low 1	
Block Grants	36	18	6	0	1	271
Property Tax Reform	38	13	5	5	0	267
Auto Insurance	38	8	9	2	4	257
Public School Facility Assistance	29	18	9	2	2	250
State Government Accountability and Efficiency	29	16	10	4	1	248
Agency Rule Making	25	21	10	3	2	247
Post Conviction Relief	26	15	17	1	1	244
Higher Education	22	21	13	4	0	241
Cash budgeting for Capital Projects	18	25	13	5	0	239

Legislative Update, January 1995

Potential Issue	Priority					Total
	High 5	4	3	2	Low 1	
Sentencing Guidelines	21	21	14	2	1	233
Department of Motor Vehicles	19	21	16	3	0	233
Education (K-12) Reform	19	25	10	3	2	233
Tuition Assistance	18	23	14	1	3	229
Health Care/Insurance	16	18	20	7	0	226
Workers' Compensation	15	23	18	1	2	225
Highway Funding	15	23	16	3	4	225
Property Rights	19	16	18	5	2	225
Environmental Infrastructure Funding	14	25	14	5	1	223
Transportation of Spent Nuclear Fuel and High-Level Radioactive Waste	17	16	21	3	2	220
Department of Transportation	18	18	11	5	8	213
Education (K-12) Block Grants	16	16	20	4	1	213
Teen Pregnancy	12	16	21	8	4	207
Family Preservation	14	16	17	9	4	207
Manufacturing Depreciation	10	21	18	5	5	203
Strategic Planning	8	23	17	8	2	201
Affirmative Action	17	13	15	5	8	200
Telecommunications	9	14	27	7	0	196

Legislative Update, January 1995

Potential Issue	Priority					
	High 5	4	3	2	Low 1	
School Choice	21	10	6	7	16	193
Real Estate Transfer Fees	7	21	17	5	8	188
Consumer Finance	3	15	30	8	3	184
Fish and Game	6	11	24	15	4	180
Adult Education	9	10	15	10	11	161
Heritage Trust Property Acquisition Limits	8	7	21	9	12	161
State Lottery	11	8	4	7	30	143

For purposes of historical comparison, the 5 issues scoring the highest in rank in the survey for last year's session were (1) welfare reform; (2) property tax reform; (3) truth in sentencing; (4) alternatives to incarceration; and (5) state government accountability and efficiency.

Other Issues

In addition to the 34 issues listed in this survey, House members were given an opportunity at the end of the survey to add any of their own issues which were not listed in this survey questionnaire. The following list indicates issues which were added by responding House members. Of the issues listed below, the issue of judicial reform received the most responses (3), while other issues received one or two responses. The issues are listed in no particular order of importance:

- Independent performance audit of State Government.
- Raising the speed limit on South Carolina's roads in light of recent national action.
- Raising the age at which drivers can be licensed in South Carolina.

("other issues" continued on next page)

Legislative Update, January 1995

- Addition State Government restructuring to incorporate more agencies under the Cabinet, giving the governor more control of these agencies.
- Revision of the Children's Code.
- The closing of the Barnwell Low Level Radioactive Waste Facility.
- Establishment of an all-day public kindergarten program in South Carolina for all students, not just those at-risk.
- Allow voters to recall elected/appointed officials.
- Passage of a voter initiative petition.
- Allow voters to approve new/increased taxes.
- Limit local governments' ability to raise taxes.
- Tort Reform.
- Income tax reform.
- Family planning.
- Open primaries.

Naming the Top Three Issues

As the final part of the survey, House members were asked to name the top three issues of the upcoming legislative session. Forty-six (46) of the 61 House members who responded to this survey also answered this final part of the survey. The results of this section were as follows:

- (1) Property Tax Relief
- (2) Auto Insurance
- (3) Education Issues (K-Higher Education)

The results of this section generally correspond with the priority rankings, with an interesting exception--block grants. In the priority rankings (1-5), block grants received the most "high priority" votes. Yet only five House members listed block grants as one of their three top priorities for the upcoming session.

Legislative Update, January 1995

The fact that property tax reform came out ahead of block grants in the "top three priorities" category might be explained by the fact that property tax relief is a continuing issue which has received much more publicity and public support than block grants. Also, property tax relief can be implemented quicker than block grants (because the latter involves federal funding which may be affected by current congressional action on this subject).

As a matter of historical comparison, property tax reform was listed as a top priority issue in the surveys completed for last two years' sessions. It was listed second in priority last year, outranked by only welfare reform. Judicial issues (truth in sentencing and alternatives to incarceration) followed close after.

Additionally, other issues frequently mentioned for the top three issues were auto insurance, education reform, and crime (without reference to any specific category such as juvenile crime, parole, etc.)

Legislative Update, January 1995

Background on the Issues

To assist House members with upcoming speeches, newsletters and constituent correspondence, background information on the issues ranked in this year's survey is provided below. The summaries are listed by the order in which the issue was ranked; for example, since Block Grants finished first in the survey rating, the summary of that issue listed below also is listed first. Thanks is given to the staffs of the six House standing committees for providing the information and preparing the summaries on these issues. Immediately below the background information on each of these issues is the name of the House staff person who prepared the summary of that particular issue.

1. BLOCK GRANTS

South Carolina is headed for massive administrative nightmares if the proposed "block grant revolution" succeeds. As quoted in a recent article of the Charlotte Observer, urban specialist Neil Pierce wrote, "What if Washington does block and dispatch all of the welfare and Medicaid, plus dozens of child care, job-training and related programs to the states?" The General Assembly needs to anticipate and have contingency plans for the most effective use of the block grant funds. (Apparently, the new federal buzzword for "block grants" is "Performance Partnership Agreements.")

---Rick Fulmer

2. PROPERTY TAX RELIEF

In the Fiscal Year 1995-96 Appropriation Act, the General Assembly provided significant property tax relief to homeowners. Specifically, the General Assembly appropriated \$195 million to provide a \$100,000 homestead exemption from school operating taxes for FY 1995-96. This homestead exemption does not include taxes for debt service or lease purchase. For the elderly, this exemption is in addition to the \$20,000 homestead exemption they currently receive.

Overall, total property tax collections for FY 1995-96 are estimated to be \$2.6 billion. This total includes taxes for operations and debt service. Homeowners account for about 22 percent of this total or \$570 million. Of

Legislative Update, January 1995

the homeowner taxes, \$490 million is for operating purposes and \$80 million is for debt service. The total school operating portion is estimated at \$251 million. (By January 1996, a more accurate figure should be available.)

To completely phase out homeowner property taxes for schools during FY 1996-97 would cost about \$76 million, with an annualized cost of \$13.3 million.

---Frank Fusco

3. AUTO INSURANCE

Again, efforts to change South Carolina's automobile insurance system shall surface during the 1996 session. On July 1, 1995, the annual recoupment fee for a clean driver (having no insurance surcharges) increased by nearly \$15.00, from \$34.00 to \$49.48. The annual recoupment fees for pointed drivers also rose significantly as a result of higher losses to the facility of almost \$40 million after three years of annually lower recoupment fees (and facility losses). Perhaps no other issue has been the source of continuing concern and debate in South Carolina than insurance.

The issue of "automobile insurance reform" was actively debated and studied in the House and Senate during the 1995 Session. This past year, the General Assembly enacted legislation to prohibit any insurance company from surcharging or increasing premiums for an accident resulting in bodily injury damages of no more than \$600 or property damages of no more than \$1,000. Previously, a person's auto insurance premiums could not be increased due to a chargeable accident resulting in no more than \$300 in bodily injury or \$750 in property damage. Not only does H.4188 change the dollar amounts for the first time since the 1980s, but it also provides a mechanism for these thresholds to be adjusted at the rate of inflation based on the Consumer Price Index by the Chief Insurance Commissioner.

There are several comprehensive auto insurance bills pending in the General Assembly. In response to the public's outcry for automobile insurance reform, the Senate Banking and Insurance Committee formulated a legislative initiative (S.628) to alter the current vehicle insurance system. Similar proposals were studied in the House and one of these bills, H.3827, sponsored by Representative Cato, is pending on the House Contested Calendar. In addition to many technical changes in the insurance laws, S.628 eliminates the current 'two' rate system by January 1, 1996, with rating tiers in the voluntary market and a uniform facility rate for business ceded to the Reinsurance Facility. Member companies of an affiliated group of automobile insurers, commonly referred to as 'pup companies', are granted the ability to use different filed rates (and rating plans) for auto insurance coverages which they are mandated by law

Legislative Update, January 1995

to write. The mandate to write physical damage coverage in the voluntary market is repealed; however, designated agents must write such coverage for all persons in the Reinsurance Facility who request coverage at the self-sustaining "facility physical damage rate." For fiscal year 1995-96, the recoupment fee charged to drivers is frozen at the amounts charged for the period of July 1, 1994 through June 30, 1995; thus attempting to avert the increases realized by the driving public on July 1, 1995. The increased recoupment fees effective on July 1, 1995, which are attributable to increased losses of approximately \$40 million in the Reinsurance Facility, would not have taken effect and would have been "unrecouped". However, these unrecouped losses would have been spread out evenly over a three year period beginning July 1, 1996, for collection, in addition to any annual facility losses. As you may recall, the increased losses attributable to "Hugo" were recouped over a three year period.

However, S.628 will reduce -- NOT ELIMINATE -- the overall recoupment fees paid by drivers and it will mean rate increases for those currently in the facility -- approximately one (1) million (982,240) people, of whom 77 percent are clean risk drivers. Overall, S.628 provides greater flexibility on the rating practices of companies when underwriting a person and creates a "friendlier" environment to attract more insurance carriers in the state.

Other pending automobile insurance measures being studied by the House Labor, Commerce and Industry Committee, call for the repeal of the mandate to write physical damage coverages (comprehensive and collision); the abolishment of the compulsory insurance system (H. 3157, Rep. Cromer); and mandatory driver education (H. 3124 - Rep. Cromer). Before the end of session, Representative Harry Cato introduced H.4301 which proposes to (1) eliminate any recoupment charge for drivers with no merit rating points (i.e., the "safe or clean" driver); (2) cap the recoupment charge for drivers with one merit rating point at \$150.00; and (3) spread the remaining recoupable losses among drivers with from two to ten merit rating points using relative percentages contained in the existing recoupment formula. Thus, zero and one pointed drivers would see a decrease, while drivers with from two to ten merit rating points would see their recoupment charges essentially double.

Also, there is a good possibility that there will be legislation introduced in or debated by the House that would move South Carolina into a choice no-fault automobile insurance system or some other form of "no-fault" insurance. There is currently a choice no-fault bill, S.361 (Martin), pending the Senate Banking and Insurance Committee. Proposals to revise the merit rating system and to adopt a "Virginia" type insurance system which will still require insurance but allow the registration of uninsured vehicles may also be considered in 1996.

-- C. Jo Anne Wessinger, Esquire

4. PUBLIC SCHOOL FACILITY ASSISTANCE

A 1994 statewide school capital needs analysis survey identified in excess of \$2 billion in facility replacements, repairs, renovations, and/or new buildings required to meet student growth projections over the five year period from school year 1993-1994 through school year 1998-1999. The study reflected the extent of deferred maintenance, delayed renovations, extensive use of temporary, relocatable classroom units as permanent facilities, and inadequate new facility building programs to meet growth and replacement requirements.

In the spring of 1995, Dr. Barbara Nielsen appointed the School Building Finance Committee to further examine school district capital needs and to build consensus around an appropriate strategy to meet the needs identified in the above mentioned survey. When the General Assembly voted to establish the Educational Assistance Endowment Fund, which would allocate 70 percent of the money for public school facility assistance for K-12 school capital needs, the committee (composed of superintendents, local school board members, school business officials, education association representatives, State Department of Education staff, and an attorney specializing in bonds) went to work to develop a distribution formula.

The committee agreed on three primary factors to be considered in the distribution plan. In the interest of fairness and balance, the committee chose the factors of need, wealth, and effort as the primary components of the formula. They concluded that 50 percent of the entitlement for each district should be based on need, 25 percent on effort, and 25 percent on wealth. The proposal calls for the leverage of revenue bonds to obtain a funding level of \$200 million annually for three years. After three years, a reassessment would be undertaken to redefine appropriate funding levels. The committee also recommended establishing an annual set-aside of funds to be used for school districts with special needs, i.e., rapid increases in student population, natural disasters, grants based on the state's most critical needs. The committee also maintained that land acquisition, furnishings and equipment, administrative and athletic facilities (other than physical educational facilities), and relocatable classroom units would not be eligible for funding through this program.

Because of rumors indicating that money from the endowment fund may be transferred to highway construction and/or prison construction, the committee developed the distribution plan mentioned above. On September 6, district superintendents voted to endorse the plan. With the help of legislative staff, legislation is being prepared to reflect the contents of the plan with the intent of having it introduced during the 1996 session. The major opposition to the plan has come from districts involved in the equity lawsuit. Upon the advice of their attorney, the 40 districts were urged not to support the plan. However, because the endowment fund is special revenue money, many of the 40 districts believe

Legislative Update, January 1995

the plan can be supported without endangering the lawsuit. Some districts also have indicated a preference for the money to be distributed on a per pupil basis.

---Sandra Smith and Rick Fulmer

5. STATE GOVERNMENT ACCOUNTABILITY AND EFFICIENCY

To continue to make state government smaller, more efficient and effective, we must analyze the way government operates and eliminate processes and procedures which do not add value. These processes and procedures are expensive and take resources away from activities which government should be doing. There are several simultaneous actions which can be taken to meet this objective:

- Total Quality Management: TQM offers many benefits: 1) Customer service; 2) Efficiency; 3) Improved employee morale. A Total Quality Management work force would allow the size of government to be reduced over time without a loss in needed services. Typically, administrative and middle management resources can be moved to direct customer services. An annual appropriation of \$582,669 is now provided. Top level commitment and support, not more money, is needed.
- Performance-based pay increases: We must get away from the concept that all employees, whether they are productive or not, get the same pay raises. Across the board pay increases sends the message to employees that we don't value hard work.
- Self-sufficiency: Let appropriate programs collect and operate off their own revenue. These programs have a built-in sunset feature: If customers don't buy the product or service, then there is no money to continue the program. Also, customers who pay for a product or service, as opposed to those who receive free services, tend to be more vocal when they are not satisfied.

---David Crouch

6. AGENCY RULE MAKING

A summary of North Carolina's law governing review and approval of agency rules follows below. It appears that North Carolina's procedure is not any better than South Carolina's. The veto feature of the North Carolina law really amounts to the General Assembly being able to overturn or veto

Legislative Update, January 1995

approval of agency regulations by a joint legislative review commission that previously had the final say on the issue.

North Carolina Administrative Rules Review

Composition of Commission

The State of North Carolina uses a Rules Review Commission to review permanent agency administrative rules. The Commission is composed of eight members appointed by the General Assembly, four upon the recommendation of the President of the Senate and four upon the recommendation of the Speaker of the House.

Time Table

Before a permanent agency rule becomes effective, it must be submitted to the Rules Review Commission. If the rule is submitted to the Commission on or before the 20th of a month, the Commission has until the last day of the next month for review. If the rule is submitted after the 20th of a month, the Commission must review the rule by the last day of the second subsequent month. In other words, the Commission has approximately one and a half to two months for review, depending upon when the agency submits the rule to the Commission.

Standards for Review

In its review, the Commission is required to determine if a rule is: (1) within the agency authority, (2) clear and unambiguous, and (3) reasonably necessary to fulfill a duty delegated by the General Assembly. The Commission may determine if the agency followed statutory procedural rules for promulgating the regulation. If procedural deficiencies are found, the Commission is required to return the rule to the promulgating agency.

Commission Action

At its first meeting on a rule, the Commission must take one of the following actions: (1) approve the rule, (2) object to the rule for failing to meet one of the standards for review, or (3) extend the period for reviewing the rule, if additional information is needed to determine if the rule meets the standards for review.

Procedure When Commission Objects

When the Commission objects to a rule, it must send a written statement to the agency giving the reason for its objections. The agency may either: (1) change the rule to satisfy the Commission's objection and resubmit it

Legislative Update, January 1995

Procedure When Commission Objects

When the Commission objects to a rule, it must send a written statement to the agency giving the reason for its objections. The agency may either: (1) change the rule to satisfy the Commission's objection and resubmit it to the Commission, or (2) submit a written response that it has decided not to change the rule. Generally, an agency has 30 days in which to respond in one of these two ways.

Resubmitted rules which satisfy the review criteria must then be approved by the Commission. If an agency decides not to satisfy the Commission's objection, the agency must make a written request that the Commission return the rule. The agency may then file the rule with North Carolina's equivalent of our Legislative Council (i.e., Codifier of Rules) for publication in the Administrative Code. However, North Carolina's Codifier of Rules must publish the Commission's objection and the standard upon which the objection is based along with the agency rule.

Procedure When Commission Extends Period for Review

The Commission must notify the agency of the reason for extending the review period and has 70 days therefrom to approve the rule, object to the rule, or call a public hearing on the rule. If a public hearing is called, the Commission must object to or approve the rule in accordance with the review criteria within 70 days of the public hearing.

1995 Amendments

Before amendments were adopted in 1995, rules became effective essentially upon approval by the Commission. In 1995, North Carolina law was amended to give the General Assembly the opportunity and authority to disapprove a rule although the Commission had approved it.

In general terms, a rule approved by the Commission becomes effective now, when (1) the General Assembly does not introduce a joint resolution to disapprove the rule before the 31st day of the next regular legislative session after the Commission's approval, (2) when the General Assembly takes unfavorable action on a joint resolution disapproving the rule, or (3) when the General Assembly adjourns without ratifying a joint resolution disapproving the rule. However, the Governor may, by executive order, make effective a rule approved by the Commission but not made effective by the General Assembly, if the Governor finds the rule necessary to protect public health, safety or welfare.

Previously, rules disapproved by the Commission still became effective, if the agency decided to proceed and file the rule with North Carolina's Codifier of Rules. The Codifier would publish the rule, along with the Commission's objections, and a person aggrieved by the rule could in some

Legislative Update, January 1995

instances file an action for declaratory judgment. Now, the Commission's disapproval of a rule or the General Assembly's ratification of a joint resolution disapproving of a rule prevent the rule from having force and effect.

---Sue McNamee and Erin burt

7. POST CONVICTION RELIEF

During the 1994 session, the General Assembly enacted the Criminal Justice Reform Act, (Act 7 of 1995), which established a one-year statute of limitations for initiating post conviction relief proceedings. See section 17-27-45. The one year statute of limitations became effective on July 1, 1995. This provision should have a significant impact upon the lengthy appeals process, at least until post-conviction relief applicants adapt to the shorter period for filing.

According to the National Association of Attorneys General, 17 states that have legislation aimed at limiting state habeas corpus. Those states are Alaska, Arkansas, Georgia, Idaho, Indiana, Iowa, Louisiana, Maryland, Minnesota, Mississippi, Montana, Oklahoma, Tennessee, Texas, Utah, Virginia and Washington. In addition, the California Attorney General has been outspoken on habeas corpus reform and has some proposals.

---Sue McNamee and Erin Burt

8. HIGHER EDUCATION

\$595 million in state funds help to offset the cost of higher education and provide for the operation of 33 public colleges and universities. An additional \$15 million in state funds are provided for student tuition assistance for private colleges. During the 1990s, less "new" revenue has been available to increase agency budgets, leading to concerns about whether the state is adequately funding higher education. At the same time, colleges and universities have increased tuition and fees, and debt for student loans is also increasing. According to the Commission on Higher Education, \$260 million would be required to bring higher education funding up to full formula.

For FY 1993-94, in the southeastern states, the state appropriation per full time equivalent student (FTE) averaged \$4,704, while South Carolina's was \$4,479. Although the state appropriation per FTE is less than six of the 15 southeastern states, from a tax burden point of view, South Carolina is about average. State appropriations provided for higher education in FY 1993-94 averaged 25.7 percent of per capita income in the southeast, while in South Carolina it was 26.5 percent.

Legislative Update, January 1995

When compared on a per capita spending basis, state appropriations for higher education in the southeastern states during FY 1993-94 averaged \$125, while in South Carolina, per capita spending was \$124.

From another perspective, the Southern Regional Education Board reports that from FY 1981-82 to FY 1991-92, the portion of the total state budget appropriated to Higher Education dropped by 1.9 percent. During the same period, student enrollment increased by 25 percent.

Some argue that the solution to this problem is for the state to increase funding for higher education. Others say that the institutions should become more efficient with tax dollars by eliminating unnecessary duplication. While the mission of the Commission on Higher Education includes "to study and submit recommendations concerning financial affairs... of the public postsecondary education institutions" and "to review the annual appropriations requests", its statutory authority does not include provisions for controlling spending by the autonomous public colleges and universities.

Since the General Assembly funds colleges and universities on a lump sum basis, they have the budgetary flexibility to manage their programs for efficiency and effectiveness. Public College and University Boards should work together more closely to not only ensure excellence in education, but to ensure that the state "system" of Higher Education provides educational programs that are provided at the least possible cost to the citizens of the state.

---Sandra Smith and Rick Fulmer

9. CASH BUDGETING FOR CAPITAL PROJECTS

Historically, capital projects have been financed through the issuance of State General Obligation Bonds or Capital Improvement Bonds. These bonds typically have terms of 15 years at various interest rates, depending on market conditions at the time the bonds are sold.

In order for the State to meet its debt obligations, an annual State Appropriation is made for "Debt Service". For Fiscal Year 1995-96, the State appropriated \$130.5 million in order to make principal and interest payments due during the year on previously-issued Capital Improvement Bonds.

If these projects were financed with cash instead of with bonds, the State would avoid interest costs as well as the cost of issuing the bonds, resulting in a cost savings. Cash budgeting could be achieved through the use of monies in the Capital Reserve Fund or any surplus funds realized after the close of a fiscal year. For example, if \$87 million in bonds were issued at a 5 percent interest rate, the total interest due over the

Legislative Update, January 1995

life of the bonds would be \$38.7 million and the annual debt service payments would be \$8.3 million. These costs would be avoided if surplus funds were used, as opposed to bonds.

The same example using the Capital Reserve Fund monies of \$80.5 million would result in avoiding total interest costs of \$35.8 million and annual debt service payments of \$7.8 million.

---David Crouch

10. SENTENCING GUIDELINES

This past legislative session, in response to the desires of both the public and of the judiciary to have some certainty in sentencing, the General Assembly passed a comprehensive Crime Act (Act 83, H. 3096) which encompasses a Truth in Sentencing provision. Because of the concern that judges would not adjust their sentencing practices to conform with Truth in Sentencing, the Act is structured so that Truth in Sentencing applies only to all persons convicted of offenses which carry a maximum penalty of 20 years or more. Under the Act, these individuals must serve at least 85 percent of the sentence before they are eligible for early release.

The goal of this Act was not to drastically increase the amount of time that offenders must serve, but to provide a sentence that is more truthful and reflective of the actual amount of time that will be spent in prison. Although legislators decided to apply Truth in Sentencing only to the more serious and violent crimes, there was general agreement that upon the implementation of Sentencing Guidelines, Truth in Sentencing would be expanded so as to encompass the remaining spectrum of crimes.

The necessity and importance of Sentencing Guidelines is evident. Sentencing Guidelines, coupled with Truth in Sentencing, will decrease disparity and increase fairness in sentencing uniformly across the State. Structured sentencing can maintain the proper balance between the seriousness of the crime, the prior criminal record, and punishment. Most agree that the most violent or dangerous offenders who pose a threat to the safety of society should be incarcerated. However, currently, offenders with sentences of three years or less make up about 33 percent of the prison population. The average length of stay of these prisoners is approximately 6 months. With the decreasing number of and the increasing costs of prison beds, a continuum of non-incarceration sanctions must be studied and applied to this ever-increasing percentage of the prison population.

A Sentencing Guidelines system can help ensure the best allocation of Corrections' resources while effectively punishing offenders of all types with sanctions specifically tailored the circumstances surrounding the crime that has been committed. The Sentencing Guidelines Commission, with

Legislative Update, January 1995

the help of grant funds received from the Edna McConnell Clark Foundation, has set December of 1995 for the deadline for the completion and submission of Sentencing Guidelines Legislation. The Commission has set forth the following goals: (1) The development of a sentencing grid which balances most of the judges' current sentencing practices with the requirement of Truth in Sentencing to reduce sentencing disparity and provide certainty in sentencing; (2) The development of a grid which maintains the proper proportionality between punishment, crime seriousness, and prior criminal record; (3) The development of a grid which covers most of the crimes judges deal with in any given year; (4) The development of a grid which will encourage the use of incarceration for offenders convicted of violent offenses and other serious offenders with long criminal records; and community alternative programs for those offenders who commit minor offenses and have short or no criminal records; (5) The development of a grid which will not contribute substantially to additional prison overcrowding; and (6) The development of a grid which is perceived as fair and reasonable to judges, legislators, solicitors, defense counsel, and members of the general public.

---Sue McNamee and Erin Burt

11. DIVISION OF MOTOR VEHICLES (TIED IN RANKINGS WITH EDUCATION (K-12) REFORM

Legislation may be introduced next year addressing two aspects of the Division of Motor Vehicles, as follows:

(1) Finding a "Home" for the Division

Prior to 1993's Restructuring Act, the Division of Motor Vehicles was a division of the Highway Department (DOT). However, after passage of that act, control of DMV had been shared until recently by the Department of Public Safety and the Department of Revenue. Last month Governor David Beasley signed an executive order effective January 1, 1996 which places the Division of Motor Vehicles under the Department of Public Safety.

(2) Making the Department a "Consumer Friendly" Agency

A number of things could be done by the General Assembly to assist DMV in serving the public in the most efficient manner possible. Most proposals are intended to shorten or eliminate long lines at the department and prevent individuals from being forced to appear at DMV offices during inconvenient work hours.

[a] ATM Machines: Encourage the Division to develop a system of ATM machines that would enable citizens to pay their vehicle property taxes and license revalidation sticker fee by credit card 24 hours a day. The ATM machine could then issue the revalidation sticker or simply issue a

Legislative Update, January 1995

paid receipt acknowledging that a sticker would be mailed promptly. In Texas, ATM machines are set up to provide individuals seeking employment with information about job openings in both the private and public sectors.

[b] Renewal of Drivers' Licenses by Mail: The Division of Motor Vehicles favors the renewal of drivers' licenses by mail. Under this system, the driver would simply send in the \$12 replacement fee and the Division would use their existing picture and issue another license. This procedure would shorten lines by reducing the number of individuals visiting the DMV offices by 800,000 per year.

[c] Allow Passage of a Certified Drivers Education Course to Automatically Enable Beginners to Receive a License: The State regulates these courses, and insurance companies give a 10 percent discount to beginners who successfully pass a drivers' education course. This program would encourage beginners to enroll in drivers' education courses and receive proper training.

---Sandra Smith and Rick Fulmer

EDUCATION REFORM (TIED IN RANKINGS WITH DIVISION OF MOTOR VEHICLES)

In recent addresses to several groups, the State Superintendent of Education, Dr. Barbara Nielsen, has referenced the State Department of Education's plan to develop an education proposal with intentions that the plan be introduced as legislation during the 1996 session. While specific details of the plan have not been communicated, the draft listed below highlights the six major topics followed by brief statements.

Outline Draft---EDUCATION ACT OF 1996

Academic Learning Standards

*Achievement at least at the basic level in all subjects assessed.

Deregulation

*State Board of Education will pass only those regulations that support achievement of academic learning standards; provide for the health, safety and civil rights of

Legislative Update, January 1995

students and staff; address facilities; and licensing of personnel.

- *Proposed rollback of other regulations.

- *Accreditation replaced with 24 quality standards that support an effective education system.

Accountability

- *Achievement at least at the basic level.

- *Financial Analysis Report.

- *Removal of district leadership if, after three years, student academic performance is not at least at the basic level in achievement.

Funding

- *Education funded first.

- *Student Base Cost and Block Grants.

- Adequate student base cost provided in block grants and reported in the following categories:

- Instruction
- Instructional Support
- Operations
- Other Commitments
- Leadership
- Continuous Improvement ("The Penny")

Governance

- *Roles of school boards and superintendents.

- *Role of State Department of Education.

Telecommunications

- *Infrastructure provided to make telecommunications and other technologies equitably accessible to all schools.

- Sandra Smith and Rick Fulmer

Legislative Update, January 1995

13. TUITION ASSISTANCE

During the 1995 session, the General Assembly approved the extension of the license for the Barnwell Low Level Nuclear Waste Facility and raised fees. These fees are being placed into a separate fund for public school facility assistance and for Higher Education scholarship grants. A Part II, permanent provision proposed in the Appropriations Act defined how to use these funds, but was not adopted. It outlined the method for providing these scholarships.

The proposed eligibility criteria for the scholarships included graduation from a high school, residency of 24 months, a "B" average in high school or 900 on the SAT, and no felony record. In addition, to maintain eligibility, students were to be required to rank in the upper 50 percent of their class. Requirements were also proposed for Technical College applicants. The Commission on Higher Education was charged with the responsibility to promulgate regulations, and adjustments to the scholarships were to be made for grants received by the applicants from any other sources. The proposal also included some funding for grants for students attending private colleges.

The Conference Committee decided not to adopt this provision in order to allow members more time to study this proposal. Members want to determine how best to design the program so that it serves as an incentive for better student performance in school, while reaching as many well deserving students as possible.

In August 1995, Mr. Fred Sheheen, commissioner of the South Carolina Commission on Higher Education, sent a letter to the Senate Education Committee outlining the positions that the Commission on Higher Education has taken on financial assistance for college students. In the letter Mr. Sheheen states that the Commission has adopted four principles in this matter: (1) a state funded need-based grants program should be established; (2) it should be campus administered; (3) it should include students attending private (independent) institutions; and (4) the Commission should be responsible for oversight of the program.

Mr. Sheheen also points out three major differences between the draft legislation and the proposed State "need-based" grants program endorsed by the Commission. These areas are academic requirements for eligibility, financial criteria, and the level of participation of the independent colleges and universities.

---Tim Rogers

14. HEALTH CARE/INSURANCE

At the present rate, more than 40 million people will be uninsured, and health care is likely to consume between 15 percent to 20 percent of the gross domestic product by the year 2000. Data from numerous sources show that health-care spending varies greatly from state to state.

For the United States as a whole, spending on hospital and physician services and for prescription drugs totaled \$1,877 per person in 1991, according to the federal government. These items account for 70 percent of spending on personal health care. Other items that may increase health care spending are the cost of nursing home care, home health care, dental care, mental health care and medical equipment.

The State of South Carolina receives over \$3 billion in federal funds each year. These funds are directed towards a wide variety of programs including health care, education, and economic development. They are allocated to the states in the form of entitlements, categorical funding and block grants. One of the largest federally-funded programs administered by the state is Medicaid, which totals about \$2 billion.

Presently, Congress is considering major changes in the method of providing these funds to the states. The federal fiscal year began on October 1, and Congress is working on changing this program with the expressed purpose of reducing expenditures to control the federal deficit. What this will probably mean for South Carolina is that state officials will be more "in charge" of allocating these funds among the various recipients during a period of time that Federal funding will not grow as much as it has in the past. This will put increasing pressure on the health services as federal funds begin to tighten, yet the demand for services will increase as the elderly population continues to grow.

As is the case for other states, South Carolina has a big stake in the outcome of the health-care debate. In the long run, the responsibility for implementing health-care reform will fall to the states. There is a need for the State to begin preparing for this significant change in federal funding policies, especially for Medicaid.

There has been little debate on the state level regarding health insurance, when compared to the discussions of automobile insurance reform proposals and of workers' compensation insurance measures. Why? Last year, South Carolina again led the nation in reforming the "Small Employer Health Insurance" market by enacting the Small Employer Health Insurance Availability Act, which mandates and guarantees insurance coverage for small groups. While national health care reform continues to be an issue in the nation's capital, concerns about rising health insurance costs and the increasing number of uninsured and underinsured South Carolinians will likely receive attention on the state level once again in 1996.

Legislative Update, January 1995

The primary concern over the health insurance debate focuses on the issue of mandating benefits and its effect on the business community, as well as its cost. There are several bills pending in the General Assembly which mandate benefits for all policies even if the covered person does not want them. Another issue of concern is "any willing provider legislation". Although such legislation is seen by some as an enrollee's right, others view it as a "doctor's protection act" for those doctors who do not want to participate as a provider in different plans at a competitive or lower rate.

Opponents of "any willing provider" argue that, one, it deviates from the basic premise of some managed care plans, whereby the enrollee chooses from a list of providers (who have agreed to provide a service at a lower rate) and second, businesses save money by utilizing managed care plans. As you know, 75 percent to 80 percent of employers pay some portion of their employees health care coverage. In fact, when they do, it is usually more than 50 percent of the cost. The 20 percent to 25 percent of those employers that do not are small businesses which would like to but cannot do so financially. And, finally, opponents argue that it naturally precipitates other actions. Several states that have enacted "any willing provider" legislation have seen movement by trial lawyers to use it as a vehicle to obtain "employee's choice of physician" in workers' compensation cases (which increases the cost that the business must pay).

In addition to the introduction of "any willing provider" legislation next session, other proposals anticipated to be before the General Assembly include: unitary pricing legislation and establishing prices for prescription drugs ("price fixing") so as to keep smaller pharmacies and independent pharmacists in the market.

--Teresa Arnold and C. Jo Anne Wessinger, Esquire

15. WORKERS' COMPENSATION (TIED IN RANKINGS WITH HIGHWAY FUNDING/PROPERTY RIGHTS)

After considerable debate, the House passed four Labor, Commerce and Industry Committee bills by adopting several workers' compensation reforms designed to reduce costs.

- H.3835 WORKERS' COMPENSATION: Administrative Changes
- H.3836 WORKERS' COMPENSATION: Work Related Stress Claims Defined
- H.3837 WORKERS' COMPENSATION: Start/Stop Payment Procedure
- H.3838 WORKERS' COMPENSATION: Back Injury 50% or more loss -- Rebuttable Presumption of Total Disability

Legislative Update, January 1995

These four legislative measures are pending in the Senate Judiciary Committee in a subcommittee chaired by Senator Ed Saleeby. The focus of the House regarding these bills will be to work with the Senate for their passage.

Another workers' compensation proposal for debate when the General Assembly returns to Columbia in January is a legislative measure which has been adopted in other states (H.4267, Rep. Cato). It requires a workers' compensation insurance carrier to offer, as a part of the policy or as an optional endorsement to the policy, deductibles optional to the employer (policyholder) for workers' compensation benefits beginning July 1, 1996. Deductible amounts offered must be disclosed fully to the prospective policyholder in writing and can be in the amount of \$100, \$200, \$300, \$400, \$500, or increments of \$500 up to a maximum of \$2,500 for each compensable claim. Its purpose is to provide the option to the employer to pay for small claims in exchange for a lower workers' compensation insurance premium. The employer would choose or decide which deductible amount would be affordable as an "out of pocket expense".

Several states in the nation have instituted practices of lowering the medical expense component of workers' compensation claims by requiring the use of managed care programs. As lower workers' compensation premiums are sought in South Carolina, this alternative may be discussed in 1996 for South Carolina.

-- C. Jo Anne Wessinger, Esquire

HIGHWAY FUNDING (TIED IN RANKINGS WITH WORKERS' COMPENSATION/PROPERTY RIGHTS)

South Carolina is in critical need of highway construction and maintenance funding. There are a number of possible alternative mechanisms to increase highway funding which could be considered during the 1996 legislative session, as follows:

(1) **UNDERAGE DUI**: The federal government is requiring states to pass legislation lowering the blood alcohol content level for underage drivers. If individuals under twenty-one years old who are driving a motor vehicle are found to have a blood alcohol content of 0.02 per cent or greater, they shall be deemed to be driving while intoxicated or driving under the influence of alcohol. Should legislators opt not to adopt this legislation, the South Carolina State Highway Fund could lose more than \$6.9 million dollars in federal funds beginning October 1, 1998, and an additional ten per cent of federal highway dollars every year thereafter that the legislation remains unpassed.

(2) **DELETE PROVISIONS REQUIRING ONE PENNY OF THE STATE GASOLINE TAX TO BE ALLOCATED TO THE GENERAL FUND**: Under South Carolina Code Section 12-27-

Legislative Update, January 1995

380, 9.34 cents of every gallon of gasoline sold in South Carolina must be credited to the State Highway Fund. However, the section also requires that 1 cent per gallon be deposited in the General Fund. This one cent per gallon requirement resulted in approximately \$20 million for the General Fund in Fiscal Year 1994-1995 (according to an estimate of the Board of Economic Advisors. A bill introduced during the 1995 session by Representative Keegan (H. 3555) would delete this "1 cent" requirement'; this legislation currently is pending in the House Ways and Means Committee.

(3) DIVERT A PORTION OF EXCESS SUPPLEMENTAL APPROPRIATIONS (\$87 MILLION) TO THE STATE HIGHWAY FUND: Because the figure used to determine anticipated state revenue was so conservative, it is anticipated that approximately \$87 million will be available in excess supplemental appropriations.

(4) RESTRICT USE OF C FUNDS (\$51.5 MILLION FOR FISCAL YEAR 1994-1995) TO PROJECTS NOW BEING FINANCED BY THE STATE HIGHWAY FUND: For example, all or a greater portion of the C Funds could be designated only for the maintenance of secondary roads. Maintenance of roads constructed with C Fund money is an annual drain on the Highway Fund of \$100 million.

(5) INCREASE THE PERCENTAGE OF THE MOTOR CARRIER BIENNIAL REGISTRATION CARD FEE GOING TO THE STATE HIGHWAY FUND: Amend South Carolina Code Section 12-31-250 to provide that the full Motor Carrier Biennial Registration Card Fee of \$8 be allocated to the State Highway Fund. Currently, 30 percent goes to the Highway Fund and 70 percent goes to the General Fund. If all proceeds from this fee were deposited in the State Highway Fund, then an additional \$4.2 million would be generated.

(6) INCREASE THE PERCENTAGE OF MOTOR CARRIER TEMPORARY PERMIT FEE GOING TO THE STATE HIGHWAY FUND: Amend Section 12-31-220 of the Code to require that the full motor carrier temporary permit fee of \$15 go to the State Highway Fund. Currently, 80 percent is allocated to the Highway Fund and 20 percent is allocated to the General Fund. This additional 20 percent going to the Highway Fund would generate an additional \$175,000 for the State Highway Fund.

(7) HAVE THE HIGHWAY DEPARTMENT RETURN TO SELF-INSURER STATUS FOR PURPOSES OF HANDLING ITS OWN WORKERS COMPENSATION CLAIMS. Prior to restructuring, when the Highway Department had more than twice its present employees, the cost of running the self-insurance program was \$4 million. Last year alone, with fewer than half the employees and without the Highway Patrol (a seemingly high risk group), the total cost was \$10 million.

---Sandra Smith, Rick Fulmer, and Lexie Chatham

Legislative Update, January 1995

PROPERTY RIGHTS (TIED IN RANKINGS WITH WORKERS' COMPENSATION/HIGHWAY FUNDING)

A bill introduced this past session, H. 3790, would add a chapter to the Code entitled "The South Carolina Property Rights Act" at §28-4-10 et seq. The Code sections are annotated with explanations and reasoning for the pertinent sections in much the same fashion as the Uniform Commercial Code is annotated. These comments provide the legislative intent for the bill by citing the relevant United States Supreme Court cases such as the Lucas v. SC Coastal Council and Dolan v. City of Tigard, Oregon cases, the Executive Orders such as President Reagan's Executive Order #12630 and legal reasoning used to explain the bill's provisions.

H. 3790 accomplishes two goals which protect the private property owner's right to the value of his property. First, the bill acknowledges that land use regulation may constitute a constitutional taking which is compensable to the landowner. The landowner whose property value is diminished by regulation would follow the condemnation process of the Eminent Domain Procedures Act for compensation. Second, the bill requires state and local agencies to affirmatively and prospectively assess the impact of proposed regulations on the use and value of private property and report that to the Governor, Attorney General and the appropriate financial authorities. If, in fact, it appears likely the proposed regulation will result in a constitutional 'taking', then the government agency must condemn the property and pay compensation to the affected landowners.

The private property rights movement is active in other states as well as in the federal government. Sixteen states have passed legislation, known as 'planning bills' which require state agencies or the state's Attorney General to assess the takings implications of their regulations before they are adopted. Another aspect of this movement is legislation which defines a regulatory taking by a specified percentage of diminished property level. Washington and North Dakota have set a 50 percent diminution in value threshold to be the level at which a taking takes place and at which level compensation must be paid. The Texas statute sets the level at 25 percent. In Louisiana and Mississippi, the compensation only pertains to 'takings' of timber or agricultural land.

H. 3790 is currently in the Constitutional Laws Subcommittee of the House Judiciary Committee.

---Sue McNamee and Erin Burt

Legislative Update, January 1995

18. ENVIRONMENTAL INFRASTRUCTURE FUNDING

One important component to continued environmentally sound economic development is cost-effective drinking water, waste water and solid waste management facilities. A 1991 survey of counties and municipalities by the South Carolina Advisory Commission on Intergovernmental Relations showed a capital need of more than \$1 billion.

This past June, the Governor vetoed the Budget and Control Board Local Government Grant Fund. As a replacement for the grant program, we need to begin capitalizing the Infrastructure Facilities Revolving Loan Fund. Neighboring states have revolving funds which are now completely funded by loan repayments.

The Office of Local Government estimates a total of \$150 million, funded over several years, would provide the necessary capital for a loan program. These funds could also match available federal funds.

---David Crouch

19. TRANSPORTATION OF SPENT NUCLEAR FUEL AND HIGH LEVEL RADIOACTIVE WASTE

With the end of the Cold War, the safe disposal of spent nuclear fuel and high-level radioactive waste has become an issue. The Clinton Administration has taken the position that the United States should be in the forefront in order to assure the proper disposal of the world's spent nuclear fuel and radioactive wastes. One possible disposal site would be the Savannah River Site in Aiken County.

To ensure the safe transport of those substances in South Carolina, a bill (H. 3553) was introduced last February to set conditions for transporting those items. Under this legislation, spent nuclear fuel and high-level radioactive waste may only be transported on South Carolina's roads or railroads if the following two conditions are met: (1) An environmental impact statement has been prepared in accordance with the National Environmental Policy Act; and (2) the Department of Health and Environmental Control (DHEC) has certified that the transport and storage of spent nuclear fuel and high-level radioactive waste in this State poses no significant risk to the health and safety of South Carolina's residents.

---Van Hegler

Legislative Update, January 1995

20. DEPARTMENT OF TRANSPORTATION (TIED IN RANKING WITH EDUCATION (K-12) BLOCK GRANTS

Prior to 1993's Restructuring Act, the Department of Transportation (DOT) was known as the South Carolina Highway Department. However, after passage of that act, some of DOT's duties were placed with the Department of Public Safety and the Department of Revenue and Taxation. Motor vehicle licensing, registration and titling became the responsibility of the Department of Revenue and Taxation. Law enforcement and vehicle information records were housed with the Department of Public Safety. This left DOT primarily responsible for road and sign construction.

Last year, legislation was introduced to eliminate the current Transportation Commission and instead make DOT a cabinet agency with the head appointed by the Governor. The bill is before a special Education subcommittee created specifically to address that issue. However, the subcommittee is reconsidering incorporating DOT into the cabinet and instead is concentrating on 1) giving the director of the Transportation Commission more flexibility in hiring/firing employees, and 2) encouraging the commission to privatize many of the services currently performed by the department. Eventually the role of DOT would be limited to preparing requests for proposals, handling bids, oversight, monitoring, and inspection of highway projects.

---Lexie Chatham

EDUCATION (K-12) BLOCK GRANTS (TIED IN RANKING WITH DEPARTMENT OF TRANSPORTATION)

Businesses complain that too many job applicants cannot read, write, or do simple arithmetic. Parents fear that schools have become more violent and that teachers are more concerned with their retirement than their classrooms. Economists believe that a weak school system is hurting our ability to compete in the global economy.

Schools complain about too many rules, regulations and budget line items. They view these restrictions as limiting their choices in using funds wisely and reallocating existing money to better uses. Local schools feel they need the flexibility to reallocate existing money to better uses so that programs can be tailored to meet unique needs.

Corporations have become more productive by eliminating needless layers of management and focusing instead on improving efficiency on the factory floor. Similarly, public schools must direct more of their funds to where the process of learning actually occurs: the classroom. Only 52 percent of every school dollar actually gets to the classroom. One of the key concepts shared between the best schools and the best companies is a clear focus on the customer.

Legislative Update, January 1995

One of the tenets of leadership is to give the manager flexibility in doing his or her job. However, accountability is just as important as flexibility. Taxpayers must be shown that their hard-earned money is being spent carefully and accountably.

Line items in the education budget are laid down with the best of intentions, but the cumulative effect is a false sense of accountability. Our attempt to prevent bad management of state education funds by imposing numerous line items makes good management impossible. School administrators cannot seize the opportunities.

For legislators to be accountable to the voters we cannot simply turn school officials free, of course. If legislators are to stop holding schools accountable for spending every penny of every line item, then another standard is needed. Schools have to articulate their missions and measure results.

Missions take the place of line items and rules. Clear missions help people at all levels decide what they should do and stop doing. Schools will need to be mission-driven and marry their budget systems to performance measures.

Accountability for line item inputs gives way to accountability for outcomes. Block grants to school districts rather than pages of line items could give the schools the flexibility they need to reach the education performance levels we desire for our state.

---Carl Jordan

22. TEEN PREGNANCY (TIED IN RANKING WITH FAMILY PRESERVATION AND SUPPORT)

Half of all women receiving AFDC in South Carolina were in their teens when their first child was born. The 1994 House Welfare Reform Task Force made several recommendations regarding prevention strategies to encourage and enable responsible family planning, emphasize family unit preservation and promote responsible prenatal and parenting practices. According to the Task Force, "reproductive health initiatives and mentoring programs can be especially effective in helping teens develop the knowledge and skills to avoid early parenting." Teen pregnancy prevention was one of the cornerstones of the Task Force recommendations.

H. 4034, currently pending in the House Medical, Military, Public and Municipal Affairs Committee, would establish a program within the Health and Human Services Coordinating Council to fund local adolescent pregnancy prevention pilot projects. The pilot projects would serve as models for replication where there is a statistically high incidence of adolescent pregnancy, premature births and infant mortality. The funds for these

Legislative Update, January 1995

projects would be provided by the Department of Health and Human Services (DHHS) based on recommendations from the Coordinating Council and a new Adolescent Pregnancy Prevention Committee made up of Council members; charitable and children's organizations; representatives of the religious community; business community, and education community; the media; and high school students.

The Coordinating Council would define the criteria used to award funds and evaluate these projects. The bill requires these criteria to include components for definable and realistic goals and objectives; demonstration of local need and community support for the projects; and matching funds from other sources. Proposals also must be evaluated as to the appropriateness of project strategies to reduce adolescent pregnancy with a primary focus on preventing the onset of early sexual activity. Projects applying for first-year funding must have an emphasis on abstinence and must be based on strategies with proven success rates. Each project would be required to have a board of local advisors with members from the medical community; education representatives; students; media; local government; charitable organizations; and private business.

To the extent that funds are available, projects may be funded for up to 5 years. After the second year, the level of state support gradually would decrease, but the project budget must be maintained at the same level by increasing the support from other sources. The Coordinating Council would determine the maximum amount that may be awarded to any one project.

If implemented, the estimated fiscal impact of H. 4034 is \$68,500 for monitoring and evaluating projects.

---Mary Denis Cauthen

FAMILY PRESERVATION AND SUPPORT (TIED IN RANKING WITH TEEN PREGNANCY)

"Over the past decade, state legislators have become increasingly concerned about the failure of children and family service systems to address juvenile violence, child abuse and neglect, academic failure, childhood poverty, and other social problems that threaten not only children but the country's economic future. At the same time, state costs for child welfare, mental health, juvenile justice and other social services have escalated.

State legislators have long recognized that the complex and uncoordinated array of services that address specific symptoms, rather than the entire range of family needs, are in fact a major part of the system failure. Traditional service systems tend to proliferate whatever service is funded as an entitlement- regardless of families' needs. Often, such services are also the most intrusive and costly. The increasing demand for such

Legislative Update, January 1995

mandated services, coupled with state fiscal constraints, have prevented states from assisting families before their problems become acute.

Among the most promising state reforms are family preservation and support services. Following the states' lead, Congress enacted the Family Preservation and Support Services Act this year, making available \$30 million over the next five years for these services.

Family preservation services offer an alternative for families at risk of losing their children to the state child welfare, mental health and juvenile justice systems. These intensive, short-term, in-home services focus on keeping the child safely at home while teaching parents how to change destructive behavior and improve parent skills.

Family Support services represent an attempt to prevent the most intrusive and costly state interventions by serving families at an earlier point-before problems become acute. Family support programs vary considerably in setting, format and emphasis, but all focus on primary prevention.

Family preservation and support services provide more efficient, effective, accountable and consumer-oriented programs by emphasizing community-based early intervention and prevention- not just crisis intervention. Family preservation services most frequently focus on change within systems; family support provides early intervention and prevention services. Taken together, family preservation and support offer a unique opportunity to reinvent children and family service systems."

---(Family Preservation article from NCSL)

24. MANUFACTURING PERSONAL PROPERTY TAX DEPRECIATION

Manufacturers are currently required to maintain a 20 percent depreciation residual on personal property capitalized. This residual serves to maintain an adequate base to generate revenue for local governments. Commercial entities are allowed to reduce their depreciation level down to 10 percent of the original cost. These commercial entities can use the depreciation rates allowed for corporate income tax purposes by the Federal Government. The discrepancies between the two different residuals have resulted in some constitutional questions of unequal treatment.

To reduce the manufacturers' residual to 10 percent would cost about \$30 million.

---Frank Fusco

25. STRATEGIC PLANNING

The book Reinventing Government states that government must be anticipatory- it must do everything possible to build foresight into its decision making. For the General Assembly to ensure that government is anticipating the future and that their success can be measured, it needs to be "pointing" the entire system in the correct direction. Consequently the Legislature must know "What should be the business of state government?"

In the book, The Fifth Discipline by Peter Senge, the author states: "...the primary threats to our survival today come not from events but from slow gradual processes to which we are 90 percent blind."

Strategic planning is a process to help us move from reactionary policy making to responsive decision making.

- It is looking more than one year into the future.
- It is not dwelling on problems.
- It is less problem solving and more envisioning the future in a positive way.
- It is "Creating Your Own Future".

(Management: Tasks, Responsibilities, Practices, Peter F. Drucker)

For the General Assembly, strategic planning can be incorporated in all facets of its operations. Like Total Quality Management, strategic planning is a way of approaching the work one does. It should incorporate the principles of TQM in its process: participatory management and a focus on the customer, for example.

Why Develop a Strategic Plan? Studies show that it:

- can positively influence performance.
- helps an organization to stay sharp and focused.
- helps to deal with the most critical problems.
- is a way to resolve an interrelated set of problems.
- provides a way to deal with the budget realities of the 1990's.
- improves communication and teamwork within the organization.

Legislative Update, January 1995

And it can help an organization influence and control its world, rather than simply responding to it. (Strategic Planning Workbook, Amherst H. Wilder Foundation, 1986)

Examples of State Strategic Planning Processes:

Kentucky- created a Long Range Policy Institute, which sponsors conferences every year for the Legislature.

Louisiana- the Senate has established Strategic Planning action committees for the interim.

Michigan- the House Republican Policy Committee holds public issue seminars throughout the state.

Missouri- the Speaker has established interim work groups.

Utah- the strategic planning process involves the public in goal setting and is centered in the Legislature. The goals are used to establish "benchmarks" for the agencies and their budgets, and to measure the progress toward the goals selected.

At a retreat of the Ways and Means Committee, the members were asked "What suggestions do you have for a strategic planning process for the state? How should it be organized and implemented so that it would be successful and used by the Ways and Means Committee and the House of Representatives?" In summary, they recommend:

The Ways and Means Committee should provide the leadership for a strategic planning process which is linked to the appropriation bill and provides for a prioritization of the state's resources. A vision statement should be developed with broad input including legislative, executive, agency, and the public/community to build consensus. The plan should provide five to ten goals that every state agency should relate to and should lead to coordination among all state government services. The process should tie in accountability, productivity measurement and benchmarks. This can be accomplished by providing committee members good, factual data by utilizing current resources and by redirecting current legislative research capabilities.

---Tim Rogers

26. AFFIRMATIVE ACTION

This joint resolution would amend the state Constitution by adding Section 16 to Article 17. This constitutional amendment would prohibit the state or its political subdivisions from using race, sex, color, ethnicity or

Legislative Update, January 1995

national origin as a criterion for either discriminating against or granting preferential treatment to any individual or group in the operation of the state's system of public education, public employment or public contracting.

The section contains the following disclaimers:

- it applies only to state action taken after the amendment is passed and ratified;
- it does not apply to classifications based upon sex which are necessary for the normal operation of public employment and public education, including the authorization and establishment of single sex higher education institutions by the General Assembly when those institutions are consistent with the public policy of the state as passed by the General Assembly;
- the section does not invalidate any court order or consent decree in force on the date the amendment is passed and ratified;
- the section does not prohibit any state action necessary to establish or maintain eligibility for federally funded programs;
- the section does not prohibit an agency from obeying a court order requiring consideration of racial, ethnic, national origin, gender or religious characteristics to remedy its own past discriminatory practices; and
- if any part of the section is found to conflict with the US Constitution or federal law, then that part is severable from the remaining portions of the section and the rest of the section shall be implemented to the maximum extent permitted under the federal guidelines.

This joint resolution is now in the Constitutional Laws Subcommittee of the House Judiciary Committee. The philosophy behind H. 3812 reflects a nationwide movement to end affirmative action programs. The President has ordered a review of all existing federal affirmative action programs and ordered agencies to end or change any programs which impose quotas or foster reverse discrimination. In California, a citizen organized initiative abolishing all racial and gender preferences will be on the 1996 ballot. Seven other states have introduced similar legislation and initiative efforts have begun in three others. The language of H. 3812 is modeled after the California initiative language.

The issue of the affirmative action programs has been addressed recently in the US Supreme Court. In June, the court ruled that federal, state and local affirmative policies must meet the highest level of constitutional scrutiny -- strict scrutiny.

Since this joint resolution amends the Constitution, a two-thirds vote of each House of the General Assembly is required to pass it. The measure then goes on the ballot for the voters to decide in the November 1996 general election. If passed by a majority of the voters, then the next General Assembly must pass the measure by a majority to ratify the voters'

Legislative Update, January 1995

decision. At that point this measure would become part of the state Constitution.

---Sue McNamee and Erin Burt

27. TELECOMMUNICATIONS

When the telecommunications industry was demonopolized in 1984, it allowed greater competition among existing and new carriers. One group of this industry's customers which has been better able to benefit from such competition is the business community. According to industry executives, they can offer a more competitive rate for business clients than for private customers. In the second half of the two-year session, reform in the regulation of the telecommunications industry is expected. Rather than regulate the industry as a "monopoly" based on its "earnings", legislative proposals may arise to change the regulatory method to one based on "prices" so as to increase competitiveness and promote efficiency on the state level, provided the federal government does not first make this change. Therefore, the business community could see additional savings in its telecommunications expenditures, as well as all South Carolinians.

-- C. Jo Anne Wessinger, Esquire

28. SCHOOL CHOICE

Many people believe that the absence of competition explains why many public schools are failing to respond to the challenges of teaching and learning. Supporters of school choice believe that by empowering parents to choose their children's schools, the vital spirit of competition will be injected into an educational system in need of renewal.

There are 3 basic types of "school choice", as listed below:

Charter schools: Charter schools have been defined as public schools that operate with greater autonomy under individual "charters" that are free of most state and district regulations.

Public school choice: Public school choice programs allow parents to choose among the public schools in a district or among the public schools in a state.

Public-private choice: Public-private choice is usually referred to as a voucher program. This program allows parents to choose among public or private schools with the transfer of public funds to private schools based on enrollment.

Legislative Update, January 1995

Charter schools and public school choice are generally viewed as preferable to the option of public-private choice because the latter transfers public dollars into private institutions. Charter schools have been viewed as a compromise between public school choice and voucher programs because they promote innovation without privatizing education. Supporters believe charter schools offer a way to bring together various reform ideas, autonomy in exchange for accountability, and true decentralization. Opponents believe public schools could offer the same options with flexibility and deregulation.

Supporters of public school choice maintain that parental involvement will increase when parents have the opportunity to choose the school their child will attend, educators will have expanded opportunities to create distinctive schools, and it is justifiable because there is no one best school for all children. Opponents believe that parental decisions of public school choice are based more on the location of a school to their work or home rather than curriculum issues or program availability.

Supporters of the voucher program maintain that there is a need to break the public monopoly and allow all schools, private and religious, to compete for tax dollars. Supporters also argue that we already have a system of choice in higher education so one should exist also in K-12 education. Opponents of the voucher system believe vouchers will syphon funds away from public schools thus creating a two-tiered education system. They also believe that voucher plans may also increase segregation by income or race.

In summary, many supporters of choice believe that choice reflects a legitimate attempt to expand teaching and learning opportunities. Opponents question whether choice will recreate segregated schools with low achievers and other special students receiving a less than adequate education.

---Sandra Smith and Rick Fulmer

29. REAL ESTATE TRANSFER FEES

During the 1995 Session, the General Assembly passed a budget which included \$195 million in property tax relief for homeowners. In response, a number of local governments have begun to explore alternative revenue streams, including additional fees on real estate transactions. In order to combat these attempts to generate additional revenue, the House Ways and Means Committee has set up a study committee to monitor revenue generation by local governments and municipalities.

Legislative Update, January 1995

Representative Felder has introduced legislation aimed at eliminating one example of 'dual fee systems' used by local and county governments. H.4104 provides that a county or municipality, but not both, may by ordinance impose a fee on the transfer of real property. The transfer fee may not exceed one-fourth of one percent of the purchase price. In addition, the reason for imposing the fee must be clearly stated in the ordinance. Thus, the bill would eliminate a loophole allowing a dual system of collection whereby county and local governments collect separate real estate transfer fees.

H.4104 is just one example of the General Assembly's continuing commitment to providing and *protecting* tax relief in South Carolina. Another alternative includes allowing citizens to vote on real estate transfers fees via a county-wide referendum.

-- C.B. "Sam" Sammataro

30. CONSUMER FINANCE

A continuing challenge for the General Assembly will be to address the problems associated with the deregulation of the consumer finance industry during the 1980's. Since Act 135 of 1995 (S. 602) requires continuing review of the industry, as well as the development of informational materials by the Department of Consumer Affairs, legislators will be keeping a close watch over this area.

Passage of S.602 during the 1995 Session reflected the General Assembly's continuing commitment to the South Carolina consumer. The Act requires that a legislative committee study and report the impact of this legislation to General Assembly. This study will enable the members to address the pressing needs in the consumer finance industry. Areas to watch include increased regulation of check cashing businesses, credit repair agencies, and businesses who offer credit to the young consumer.

-- C.B. "Sam" Sammataro

31. FISH, GAME, AND WATERCRAFT LAWS

Many of South Carolina's fish, game and watercraft laws (found in Title 50 of the Code of Laws) are seen as outdated, and in some cases, onerous. For example, the division of the State into 11 game zones, each with their own laws on when and where various outdoor activities can be performed, create much confusion among residents who enjoy these activities. Furthermore, there is no biological reason why the State should be divided into that many game zones. Legislation will be

Legislative Update, January 1995

introduced next year to reduce the number of game zones and to make our wildlife laws more concise and understandable.

---Van Hegler

32. ADULT EDUCATION (TIED IN RANKING WITH HERITAGE TRUST PROPERTY ACQUISITION LIMITS)

After a comprehensive survey of programmatic and fiscal delivery systems for adult literacy training, adult basic education, adult vocational education, and other adult educational services in the state, the South Carolina Commission on Higher Education, as part of its duties as the State Occupational Training Advisory Committee, is recommending that all adult education services be assigned to the State Board for Technical and Comprehensive Education and the 16 technical colleges under its jurisdiction.

The S.C. Commission on Higher Education hired a consultant to assist in designing a survey to solicit information from the State Department of Education, the Department of Social Services, the Employment Security Commission, the Department of Vocational Rehabilitation, and the State Board for Technical and Comprehensive Education. It is the opinion of the commission, based on the information assimilated through the survey, that the delivery systems for adult education are fragmented, largely uncoordinated, and confusing to the adult clientele. The commission believes that a dramatic restructuring of the state's efforts in adult education is imperative, placing the responsibility for all adult education in one delivery system.

Specific recommendations center around the following: (1) retain the responsibility within the public school system to deliver educational programs to those citizens who have not exceeded the legal age for attending public schools, (2) repeal the section of the S.C. Code of Laws that allows persons over 21 years of age to attend public schools at night, (3) transfer all personnel and all sources of funding for adult literacy, adult basic education, and adult high school completion to the State Board for Technical and Comprehensive Education, and (4) increase per student funding for adult education to improve and extend education and training for adults (based on the findings of the 1991 study conducted by MGT of America, Inc. for the Joint Legislative Committee).

At a recent public hearing, adult educators expressed frustration with the current delivery system. While they did not endorse the commission's plan, they did see this proposal as a means for creating needed dialogue. There was considerable discussion about the lack of funding support. Opponents of the plan believe that removing adult education from the State Department of Education will sever the ties

Legislative Update, January 1995

established in the Early Childhood and Academic Assistance Act of 1993 (Act 135) dealing with parenting and family literacy. It will also require either the elimination of the High School Completion Program or a change in statute granting the technical and comprehensive education system the power to grant high school diplomas. There is also a concern that the technical and comprehensive education system will not be able to supplement adult education funding in the same manner school districts are currently supplementing adult education. (The MGT survey indicated that districts are contributing approximately 28 percent of the instructional costs of adult education through local revenues.)

A committee composed of representatives from the affected agencies and professional associations is being organized to work together to resolve any issues and to incorporate solutions into proposed legislation for the 1996 session.

---Sandra Smith and Rick Fulmer

HERITAGE TRUST PROPERTY ACQUISITION LIMITS

In 1976, the General Assembly passed an act establishing the Heritage Trust Program, under which the State, for preservation purposes, may purchase up to 100,000 acres of land that is deemed to be of especially outstanding and unique natural or cultural character. Legislation was introduced this past March (H. 3872) which would limit the number of acres of total property which may be purchased under this program in any 1 county to 20,000 acres. That bill currently is pending in the House Agriculture, Natural Resources and Environmental Affairs Committee.

---Van Hegler

STATE LOTTERY

With South Carolina's two neighboring states---Georgia and North Carolina---having, respectfully, adopted and considered a state lottery, the issue of a proposed lottery in South Carolina generated much attention and debate during the 1995 legislative session and may do so again in 1996.

Early in the 1995 session, Representative Scott introduced a joint resolution, H. 3772, to amend South Carolina's Constitution so as to authorize a state lottery. As originally introduced, H. 3772 provided that a maximum of 15 percent of lottery revenues each year would be

Legislative Update, January 1995

expended for the lottery's operational expenses, with 50 percent of revenues expended for prizes and remaining revenues spent on nonrecurring expenses for public education (including public higher education), health care, water and sewer infrastructure, other capital improvements, reduction of bonded indebtedness, or for any combination of those purposes as provided by law by the General Assembly.

In May, the House voted to recall the joint resolution from the Judiciary Committee, and late that month amended the joint resolution to require the net proceeds remaining after lottery operational costs and the awarding of prizes to be spent on residential property tax relief and assisting the elderly in purchasing prescription medication. While H. 3772 received second reading by a vote of 64-43 in the closing days of the session, the proposal was 19 votes short of the 83 affirmative votes required in the House to pass constitutional amendments. The third reading of this joint resolution has been delayed until the 1996 session.

Proponents of the lottery claim that it could help fund programs which currently are underfunded. (A study conducted by the State Board of Economic Advisors a few years ago indicated that South Carolina could collect approximately \$60 million annually if the lottery were fully operational.) Proponents also point to the apparently large number of South Carolinians traveling to Georgia to buy lottery tickets, thereby taking revenue out of South Carolina, and frame the lottery question in a libertarian mode, i.e., government should allow people to decide how to spend their own money, even if people may not always spend their money wisely. Lottery supporters also claim that most South Carolinians want a lottery, judging by the fact that 34 of the state's 46 counties voted in 1994 to continue video poker payoffs. Lottery opponents, however, claim that lottery revenues are unreliable, would only constitute a relatively small amount of money when compared to overall state spending, and warn that a lottery would hurt the work ethic by encouraging a "something for nothing" attitude---the idea that one will get rich by playing the lottery, even though the odds of winning a jackpot are very remote---and would negatively impact the poor, who could least afford to play the lottery. Opponents paint a picture of poor families spending their scarce resources---money that otherwise would go for the necessities of food and shelter---on lottery tickets.

---Sue McNamee and Erin Burt